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February 29, 2016

VIA CERTIFIED MAIL

C T Corporation System
Agent for Service of Process
Precision Metal Products, Inc.
818 West Seventh St Ste. 930
Los Angeles CA 90017

VIA CERTIFIED MAIL - RETURN RECEIPT REQUESTED

David Darrow
Precision Metal Products, Inc.
850 W Bradley Ave
El Cajon California 92020

Ronald A. Recht
Agent for Service of Process
Food Partners, LLC
501 Santa Monica Blvd. #312
Santa Monica, CA 90401

**Re: Clean Water Act Notice of Intent to Sue/60-Day Notice Letter
Precision Metal Products Violations of General Industrial Permit**

Dear Mr. Darrow:

Please accept this letter on behalf of the Coastal Environmental Rights Foundation (CERF) and San Diego Coastkeeper (Coastkeeper) regarding Precision Metal Products, Inc.'s violations of the State Water Resources Control Board Water Quality Order No. 97-03-DWQ, Natural Pollutant Discharge Elimination System (NPDES), General Permit No. CAS000001, and Waste Discharge Requirements for Discharges of Storm Water Associated With Industrial Activities Excluding Construction Activities (General Industrial Permit).¹ This letter constitutes CERF and Coastkeeper's notice of intent to sue for violations of the Clean Water Act and General Industrial Permit for the Precision Metal Products, Inc. facility located at 850 W. Bradley Ave, El Cajon, CA, 92020 ("Facility" or "Precision Metal"), as set forth in more detail below.

Section 505(b) of the Clean Water Act requires that sixty (60) days prior to the initiation of a citizen's civil lawsuit in Federal District Court under Section 505(a) of the Act, a citizen must give notice of the violations and the intent to sue to the violator, the Administrator of the U.S. Environmental Protection Agency, the Regional Administrator of the U.S. Environmental Protection Agency for the region in which the violations have occurred, the U.S. Attorney General, and the Chief Administrative Officer for the State in which the violations have occurred (33 U.S.C. § 1365(b)(1)(A)). This letter

¹ On April 1, 2014, the State Water Resources Control Board adopted Order No. 2014-0057-DWQ, which amends the Industrial General Permit ("New Industrial Permit"). These amendments became effective on July 1, 2015. All references to the General Industrial Permit are to the Permit as it existed at the time of the violations noted herein.

provides notice of Precision Metal's Clean Water Act violations and CERF and Coastkeeper's intent to sue.

I. Citizen Groups

CERF is a non-profit public benefit corporation organized under the laws of the State of California with its main office in Encinitas, CA. CERF is dedicated to the preservation, protection, and defense of the environment, the wildlife, and the natural resources of the California Coast. CERF's mailing address is 1140 S. Coast Highway 101, Encinitas, CA 92024.

Coastkeeper is a nonprofit organization committed to protecting and restoring the San Diego region's water quality and supply. A member of the international Waterkeeper Alliance, Coastkeeper's main purpose is to preserve, enhance, and protect San Diego's waterways, marine sanctuaries, coastal estuaries, wetlands, and bays from illegal dumping, hazardous spills, toxic discharges, and habitat degradation. Coastkeeper implements this mission through outreach, education, activism, participation in governmental hearings, and prosecuting litigation to ensure that San Diego's beaches, bays, coastal waters and tributary streams and rivers meet all substantive water quality standards guaranteed by Federal, State, and local statutes and regulations. Coastkeeper's office is located at 2825 Dewey Road, Suite 200 in San Diego, California 92106.

Members of CERF and Coastkeeper use and enjoy the waters into which pollutants from Precision Metal's ongoing illegal activities are discharged, namely Forester Creek, San Diego River, and eventually the Pacific Ocean (Receiving Waters). The public and members of CERF and Coastkeeper use these Receiving Waters to fish, boat, kayak, surf, swim, scuba dive, birdwatch, view wildlife, and to engage in scientific studies. The discharge of pollutants by the Precision Metal Facility affects and impairs each of these uses. Thus, the interests of CERF and Coastkeeper's members have been, are being, and will continue to be adversely affected by Precision Metal Owners and/or Operators' failure to comply with the Clean Water Act and the General Industrial Permit.

II. Storm Water Pollution and the General Industrial Permit

A. Duty to Comply

Under the Clean Water Act, the discharge of any pollutant to a water of the United States is unlawful except in compliance with certain provisions of the Clean Water Act. (See 33 U.S.C. § 1311 (a)). In California, any person who discharges storm water associated with industrial activity must comply with the terms of the General Industrial Permit in order to lawfully discharge.

The Precision Metal Owners and/or Operators conduct steel fabrication at the Facility, producing structural steel columns, beams, and braces as well as fences, gates, stairs, railings, screens, and canopies. "In addition to forging, [Precision Metal] conducts support operations consisting of machining, heat treating and surface finishing." (SWPPP, p. 2). The Facility SIC Code is 3462, Iron and Steel Forgings and 3463, Nonferrous Forgings.

Precision Metal enrolled as a discharger subject to the General Industrial Permit on October 3, 2007 for its facility located at 850 W. Bradley Ave, El Cajon, CA 92020. Precision Metal enrolled under the New Industrial Permit on January 27, 2015, WDID Number 9 371021188.

Pursuant to Section C(1) of the General Industrial Permit, a facility operator must comply with all conditions of the General Industrial Permit. (See New Industrial Permit, §I.A.8. [dischargers must "comply with all requirements, provisions, limitations, and prohibitions in this General Permit."]). Failure to comply with the General Industrial Permit is a Clean Water Act violation. (General Industrial Permit, § C.1; New Industrial Permit §XXI.A.). Any non-compliance further exposes an owner/operator to an (a) enforcement action; (b) General Industrial Permit termination, revocation and re-issuance, or modification; or (c) denial of a General Industrial Permit renewal application. As an enrollee, Precision Metal has a duty to comply with the General Industrial Permit and New Industrial Permit and is subject to all of the provisions therein.

B. Failure to Monitor and Report

The Precision Metal Owners and/or Operators have failed to report all monitoring data as required under the New Industrial Permit, which became effective July 1, 2015. Under the New Industrial Permit, Precision Metal is required to sample two qualifying storm events during the first half of the reporting period, and two during the latter half. All monitoring data must be uploaded to SMARTS within 30 days of obtaining all results for each sampling event. (New Industrial Permit, §XI.B.11.a.). However, the Precision Metal Owners and/or Operators failed to upload monitoring data from four sampling events from as early as September 15, 2015 until February 23, 2016. Thus, the Precision Metal Owners and/or Operators failed to upload four separate monitoring data sets in a timely manner, in violation of the New Industrial Permit.

Further, though the Facility SWPPP, General Industrial Permit and New Industrial Permit require monitoring of nitrates, the Precision Metal Owners and/or Operators have consistently failed to sample for Nitrate and Nitrite Nitrogen during most sampling events. (See SWPPP, p. 15). After the 2011-2012 wet season, the Precision Metal Owners and/or Operators inexplicably ceased monitoring and reporting for Nitrate or Nitrite until approximately September 15, 2015.

The Precision Metal Owners and/or Operators had numerous opportunities to sample but failed to do so. They are thus subject to penalties in accordance with the General Industrial Permit – punishable by a minimum of \$37,500 per day of violation. (33 U.S.C. §1319(d); 40 CFR 19.4; New Industrial Permit, §XXI.Q.1).

C. The Precision Metal Facility Discharges Contaminated Storm Water in Violation of the General Industrial Permit

The Precision Metal Owners and/or Operators' monitoring reports indicate consistent exceedances and violations of the General Industrial Permit. Discharge Prohibition A(2) of the General Industrial Permit and New Industrial Permit Sections III.C-D prohibit storm water discharges and authorized non-storm water discharges which cause or threaten to cause pollution, contamination, or nuisance.

Receiving Water Limitation C(1) of the Storm Water Permit prohibits storm water discharges to surface or groundwater that adversely impact human health or the environment. Receiving Water Limitation C(2) prohibits storm water discharges and authorized non-storm water discharges which cause or contribute to an exceedance of any water quality standards or applicable Basin Plan water quality

standards. (See New Industrial Permit Receiving Water Limitations VI.A-C). In addition, Receiving Water Limitation VI.C. of the New Industrial Permit prohibits discharges that contain pollutants in quantities that threaten to cause pollution or a public nuisance.

The California Toxics Rule ("CTR"), 40 C.F.R. 131.38, is an applicable water quality standard. (*Baykeeper v. Kramer Metals, Inc.* (C.D.Cal. 2009) 619 F.Supp.2d 914, 926). "In sum, the CTR is a water quality standard in the General Permit, Receiving Water Limitation C(2). A permittee violates Receiving Water Limitation C(2) when it 'causes or contributes to an exceedance of' such a standard, including the CTR." (*Id.* at 927).

If a discharger violates Water Quality Standards, the General Industrial Permit and the Clean Water Act require that the discharger implement more stringent controls necessary to meet such Water Quality Standards.(General Industrial Permit, Fact Sheet p. viii; 33 U.S.C. § 1311(b)(1)(C); New Industrial Permit, §XX.B.). The Precision Metal Owners and/or Operators have failed to comply with this requirement, routinely violating Water Quality Standards without implementing BMPs to achieve BAT/BCT or revising the Facility's SWPPP pursuant to General Industrial Permit section (C)(3) and New Industrial Permit Section X.B.1.

As demonstrated by sample data submitted by Precision Metal, from enrollment on October 3, 2007 through the present, the Precision Metal Owners and/or Operators have discharged and continue to discharge storm water containing pollutants at levels in violation of water quality prohibitions and limitations during every significant rain event. The Precision Metal Facility's sampling data reflects numerous discharge violations (see below). Precision Metal's own sampling data is not subject to impeachment. (*Baykeeper, supra*, 619 F.Supp. 2d at 927, citing *Sierra Club v. Union Oil Co. of Cal.*, (9th Cir. 1987) 813 F.2d 1480, 1492 ["when a permittee's reports indicate that the permittee has exceeded permit limitations, the permittee may not impeach its own reports by showing sampling error"]).

This data further demonstrates the Precision Metal Facility continuously discharges contaminated storm water during rain events which have not been sampled.

No.	Date	Discharge Point	Parameter	Units	Result	Benchmark/WQO
1	1/6/2016	2	Zinc	mg/L	.380	.12
2	12/1/2015	1	Zinc	mg/L	.21	.12
3	12/1/2015	1	Iron	mg/L	1.56	1.0
4	12/1/2015	1	Aluminum	mg/L	1.57	.75
5	12/1/2015	2	Zinc	mg/L	.47	.12
6	10/5/2015	1	Iron	mg/L	4.68	1.0
7	10/5/2015	1	Aluminum	mg/L	6.28	.75
8	10/5/2015	1	Zinc	mg/L	1.84	.12
9	10/5/2015	2	Iron	mg/L	1.98	1.0
10	10/5/2015	2	Aluminum	mg/L	1.54	.75
11	10/5/2015	2	Zinc	mg/L	.32	.12
12	9/15/2015	1	Iron	mg/L	1.85	1.0

13	9/15/2015	1	Aluminum	mg/L	1.85	.75
14	9/15/2015	1	Zinc	mg/L	.809	.12
15	9/15/2015	1	Nitrate + Nitrite (N)	mg/L	5.68	.68
16	9/15/2015	2	Iron	mg/L	3.27	1.0
17	9/15/2015	2	Aluminum	mg/L	5.12	.75
18	9/15/2015	2	Zinc	mg/L	8.50	.12
19	9/15/2015	2	Nitrate + Nitrite (N)	mg/L	2.78	.68
20	1/27/2015	1	Zinc	mg/L	4.37	.12
21	1/27/2015	1	Iron	mg/L	14.9	1.0
22	1/27/2015	1	Aluminum	mg/L	5.19	.75
23	1/27/2015	1	TSS	mg/L	104	100
24	1/27/2015	2	Zinc	mg/L	2.02	.12
25	1/27/2015	2	Iron	mg/L	16.8	1.0
26	1/27/2015	2	Aluminum	mg/L	14.6	.75
27	1/27/2015	2	TSS	mg/L	307	100
28	12/4/2014	1	Zinc	mg/L	1.28	.12
29	12/4/2014	1	Iron	mg/L	1.24	1.0
30	12/4/2014	2	Zinc	mg/L	.492	.12
31	4/1/2014	1	Zinc	mg/L	.936	.12
32	4/1/2014	2	Zinc	mg/L	.286	.12
33	4/1/2014	2	Iron	mg/L	1.97	1.0
34	4/1/2014	2	Aluminum	mg/L	1.97	.75
35	2/27/2014	1	Zinc	mg/L	2.02	.12
36	2/27/2014	1	Iron	mg/L	4.18	1.0
37	2/27/2014	1	Aluminum	mg/L	5.26	.75
38	2/27/2014	2	Zinc	mg/L	.438	.12
39	2/27/2014	2	Iron	mg/L	5.05	1.0
40	2/27/2014	2	Aluminum	mg/L	5.59	.75
41	1/25/2013	1	Zinc	mg/L	1.81	.12
42	1/25/2013	1	Iron	mg/L	5.41	1.0
43	1/25/2013	1	Aluminum	mg/L	3.09	.75
44	1/25/2013	1	Copper	mg/L	.079	.013
45	1/25/2013	2	Zinc	mg/L	.49	.12
46	1/25/2013	2	Iron	mg/L	5.05	1.0
47	1/25/2013	2	Aluminum	mg/L	4.57	.75
48	1/25/2013	2	TSS	mg/L	131	100
49	12/13/2012	1	Zinc	mg/L	.86	.12
50	12/13/2012	2	Zinc	mg/L	.26	.12
51	2/27/2012	1	Zinc	mg/L	.49	.12
52	2/27/2012	1	Iron	mg/L	3.57	1.0

53	2/27/2012	1	TSS	mg/L	141	100
54	2/27/2012	2	Copper	mg/L	.05	.013
55	2/27/2012	2	Zinc	mg/L	.49	.12
56	2/27/2012	2	TSS	mg/L	163	100
57	5/18/2011	1	Zinc	mg/L	.684	.12
58	5/18/2011	1	Iron	mg/L	1.93	1.0
59	5/18/2011	1	Aluminum	mg/L	1.35	.75
60	5/18/2011	2	Zinc	mg/L	.209	.12
61	5/18/2011	2	Iron	mg/L	1.65	1.0
62	5/18/2011	2	Aluminum	mg/L	1.68	.75
63	3/22/2011	1	Zinc	mg/L	.678	.12
64	3/22/2011	2	Iron	mg/L	1.02	1.0
65	10/6/2010	1	Aluminum	mg/L	1.89	.75
66	10/6/2010	1	Zinc	mg/L	7.46	.12
67	10/6/2010	1	Iron	mg/L	2.52	1.0
68	10/6/2010	1	Nitrate + Nitrite (N)	mg/L	1.23	.68
69	10/6/2010	2	Aluminum	mg/L	1.77	.75
70	10/6/2010	2	Zinc	mg/L	1.06	.12
71	10/6/2010	2	Iron	mg/L	3.57	1.0
72	10/6/2010	2	Nitrate + Nitrite (N)	mg/L	.77	.68

D. Inadequate Storm Water Pollution Prevention Plan

One of the main requirements for the General Industrial Permit is the Storm Water Pollution Prevention Plan (SWPPP). (General Industrial Permit §A; New Industrial Permit §X.). Precision Metal has not developed an adequate SWPPP as required by the General Permit or New Industrial Permit, with many of the required elements noticeably absent from the Precision Metal Facility SWPPP. (New Industrial Permit, §X.A.1-10).

For example, the SWPPP and does not include a monitoring plan that complies with the New Industrial Permit. (New Industrial Permit, §XI.). The SWPPP incorrectly identifies qualifying storm events and monitoring frequency pursuant to the old monitoring requirements under the General Industrial Permit. (SWPPP, p. 15). The SWPPP must be updated to require sampling after 48 hours with no discharge (as opposed to 3 working days) at a frequency of two events from July 1 to December 31st and two events from January 1 to June 30th (instead of two events per year total).

The latest Precision Metal SWPPP, uploaded to SMARTS on September 10, 2015, also fails to identify the receiving waters (Forester Creek and San Diego River) and fails to identify the impaired status of Forester Creek. Thus, the SWPPP fails to evaluate the Facility's potential contribution of pollutants for which these receiving waters are listed. Forester Creek is on the 303(d) list as impaired for numerous constituents, including fecal coliform, selenium, total dissolved solids, and pH. The San Diego River is also impaired for numerous constituents, including toxicity.

The latest SWPPP also fails to account for the numerous and repeated violations identified by Precision Metal's monitoring data – ensuring these violations continue. The SWPPP is therefore inadequate. (See New Industrial Permit §I.E.37. [“Compliance with water quality standards may, in some cases, require Dischargers to implement controls that are more protective than controls implemented solely to comply with the technology-based requirements in this General Permit.”])).

Every day the Precision Metal Owners and/or Operators operate the Facility without an adequate SWPPP, is a separate and distinct violation of the General Industrial Permit, New Industrial Permit, and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). The Precision Metal Owners and/or Operators have been in daily and continuous violation of the General Industrial Permit and New Industrial Permit since at least February 29, 2011. These violations are ongoing and the Precision Metal Owners and/or Operators will continue to be in violation every day they fail provide an adequate SWPPP for the Facility. Thus, the Precision Metal Owners and/or Operators are liable for civil penalties of up to \$37,500 per day of violation for 1,825 violations of the General Industrial Permit and the Clean Water Act.

III. Remedies

Upon expiration of the 60-day period, CERF and Coastkeeper will file a citizen suit under Section 505(a) of the Clean Water Act for the above-referenced violations. During the 60-day notice period, however, CERF and Coastkeeper are willing to discuss effective remedies for the violations noted in this letter. If you wish to pursue such discussions in the absence of litigation, it is suggested that you initiate those discussions immediately. If good faith negotiations are not being made, at the close of the 60-day notice period, CERF and Coastkeeper will move forward expeditiously with litigation.

Precision Metal must develop and implement an updated SWPPP, install BMPs to address the numerous and ongoing water quality violations, and implement a robust monitoring and reporting plan. Should the Precision Metal Owners and/or Operators fail to do so, CERF and Coastkeeper will file an action against Precision Metal for its prior, current, and anticipated violations of the Clean Water Act. CERF and Coastkeeper's action will seek all remedies available under the Clean Water Act § 1365(a)(d). CERF and Coastkeeper will seek the maximum penalty available under the law which is \$37,500 per day.

CERF and Coastkeeper may further seek a court order to prevent Precision Metal from discharging pollutants. A strong or substantial likelihood of success on the merits of CERF's claim exists, and irreparable injuries to the public, public trust resources, and the environments will result if the Facility further discharges pollutants into Receiving Waters. The cessation of the Facility's discharge will not cause substantial harm to others, and the public interest would be served in preventing discharge of pollutants into receiving waters.

Lastly, section 505(d) of the Clean Water Act, 33 U.S.C. § 1365(d), permits prevailing parties to recover costs, including attorneys' and experts' fees. CERF and Coastkeeper will seek to recover all of their costs and fees pursuant to section 505(d).

IV. Conclusion

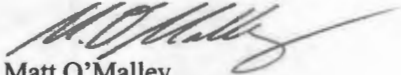
CERF and Coastkeeper have retained legal counsel to represent it in this matter. Please direct all communications to CERF and Coastkeeper's legal counsel:

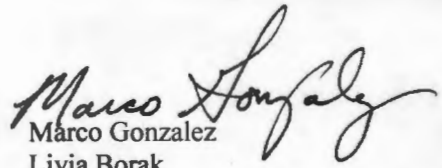
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If you wish to pursue settlement discussions in the absence of litigation, please contact Coast Law Group LLP and San Diego Coastkeeper immediately.

Sincerely,


Matt O'Malley
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